



COCHISE COUNTY

COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

TO: Board of Adjustment, District 3

FROM: Peter Gardner, Planner I

For: Beverly Wilson, Deputy Director Planning Division

SUBJECT: Minutes of the Regular Meeting of January 8, 2013

DATE: January 16, 2013

Members Present:

Paul Brick, Chairman
Shawn Wales, Vice Chairman
Helen Barnard, Member

Staff Present:

Keith Dennis, Planner II
Peter Gardner, Planner I

Others Present:

James Gyurkovic & Sharon Marchenka - Appellants
Fred Kendall - Public

These minutes for the BA3 meeting held on January 8, 2013 are complete only when accompanied by the memoranda for said meeting dated January 8, 2013.

Call to Order / Roll Call:

Chairman Paul Brick called the meeting to order at 6:37 p.m. at the J.P. Courtroom at the County Service Center in Benson. He explained the procedures of the meeting to those present, and noted that all members of the Board were present and that as such, a quorum was established and business could proceed.

Vice Chairman Wales made a motion to approve the minutes of the December 11, 2012 regular meeting. Ms. Barnard seconded the motion, and the vote was 3-0 to approve the minutes of the December 11, 2012 meeting.

NEW BUSINESS

Docket BA3-13-01 (Gyurkovic): Chairman Brick introduced the Docket which is an appeal of the Cochise County Zoning Regulations. Appellant, James Gyurkovic, wishes to reside in a park model on the subject parcel which is zoned MH-72. Article 2 of the County Zoning Regulations classifies park models as RVs, but RVs are not allowed as principal permitted uses in the MH-72 Zoning District. The Appellant disputes the County's determination that the proposed dwelling is an RV; he maintains that it is a manufactured home, which is allowed as principal a permitted use in the MH-72 Zoning District. He is appealing the County Zoning Inspector's determination that the unit is an RV and cannot be used as a dwelling on the subject parcel.

The subject parcel (Parcel # 208-69-034) is located at 2278 North Sunset Avenue in Benson, AZ.

Chairman Brick called for the Planning Director's presentation of the Docket. Keith Dennis delivered the report, illustrating the facts of the case utilizing photos, maps and other visual aids. He explained the background of the case and the circumstances surrounding the Appeal requested under consideration. Mr. Dennis explained the differences between Park Models and Manufactured Homes and the applicable standards. He informed the Board that the Appellant had provided Staff with 13 letters of support after the packet had been sent out. Mr. Dennis emphasized that the Appellant had made extraordinary efforts to give notice to surrounding property owners. He concluded by offering factors in favor and against approval.

Chairman Brick invited questions for Staff. Chairman Brick requested clarification of the unit's size. Vice-Chairman Wales asked if the proposed Arizona Room would be considered towards the size of the unit. After discussion it was established that the square footage of the addition would not impact the size of the unit or its legal status. Mr. Wales asked for clarification of the letter submitted by the inspector who visited the unit in Tucson. The letter was deemed confusing and the issue was not settled. Mr. Wales asked if the unit was tagged as a park model or as a manufactured home. Mr. Dennis explained that the unit was tagged as a park model. Mr. Wales also asked if the HUD standards were in effect when this unit was built in 1986. Mr. Gardner clarified that they were.

Chairman Brick declared the Public Hearing open, and then called for the Appellant's statement. The Appellant spoke to explain the reasons behind the request. Mr. Gyurkovic explained his efforts with a Realtor to establish that the property in question was appropriate for their home. He explained the background of his experience with Planning and Zoning and applying for the permit. The Appellant stated that he felt that everyone knew the difference between an RV and a Manufactured home and explained that he had not heard the term Park Model prior to applying for the permit. He professed ignorance of HUD standards and their implications and presented a tax form from Pima County pertaining to the unit as well as a receipt from the company who moved the unit and the Highway permit required to move the unit. Mr. Gyurkovic disputed the letter from the inspector and implied that the inspector did not visit the home. He explained his reasons for moving the unit despite the direction from Staff not to do so. The Appellant went on to dispute that his home met the definition of a park model and claimed that Staff was not able to provide him with guidance regarding his home. He stated that several Counties are arguing with the State over Park Models and claimed that Pima, Pinal, and Maricopa Counties do not regulate park models in any way. Mr. Wales asked about the current and proposed state of the ground surface, which the Applicant clarified. Mr. Wales asked about development on adjoining parcels and screening, and Mr. Gardner expressed Staff's opinion that screening would be more intrusive than not. Mr. Gyurkovic stated that he was told by Staff that they would visit the property but claimed that no one had ever visited the site to evaluate the project. He presented photos of several other homes in the neighborhood for comparison. Mrs. Marchenka reiterated that they felt that their home was obviously not a park model. Mr. Gyurkovic then asked for questions from the Board. Ms. Barnard asked for clarification that the Appellant was under the belief that there would be no issues installing their home on this parcel, which the Appellant provided. The Board took time to examine the photos provided of the neighborhood. Mr. Wales asked Mr. Dennis for clarification of the zoning, which Mr. Dennis provided, explaining the concept behind subdivisions such as Willow Lakes. RV parks versus MR and MH zonings were discussed and

clarified. Ms. Barnard asked about temperature ratings on park models and discussed the work necessary on the home to protect it against the elements in Willow Lakes. Mr. Wales discussed Manufactured Homes and the different standards and why some units are built to one set versus the other set of standards. He then asked about the pre-1976 homes and what standards they were built to. Mr. Dennis and Mr. Gardner clarified and explained how pre-1976 homes may be installed in the County. Mr. Brick commented on tax issues with various units and asked about how moveable the Appellant's unit is. Mr. Wales expressed a belief that many homes in Cochise County are only tracked through MVD rather than the County. Mr. Brick asked about the Appellant's plans for a foundation, which Mr. Gyurkovic elaborated on. Mr. Brick again compared HUD and ANSI standards. Mr. Wales expressed a belief that park models should be further broken down and some units should be considered manufactured homes and other should be considered RVs. Mr. Dennis elaborated on this point. There was more discussion and doubt about the inspector's report and Mr. Wales stated that he felt the photos were sufficient to show the size of the unit. Mr. Wales also asked for further information about the park model definition which Staff provided.

Fred Kendall spoke about the project and gave support for the unit. He berated staff for not condemning several surrounding properties and for bothering the Appellant. He also stated that the unit was obviously not an RV and expressed concern that the County deemed it such. He told staff to leave the Appellant alone and that the inspector was lying or mistaken and that Staff was obviously wrong in their interpretation. The Appellant noted that he researched the unit's manufacturer and found that the current maker produces RVs. He stated that he offered to rehab the unit to Staff's liking and was declined. Ms. Barnard offered a personal story regarding a park model. Mr. Wales expressed concern about making a decision without technical knowledge of the units. He then addressed concerns regarding property values and safety but felt that they were not issues with this unit. He also expressed concern that the Appellant had defied Staff's direction, but felt that the Appellant had reasonably explained such defiance. Mr. Brick noted that he felt that the unit would improve the area and agreed with Mr. Kendall's opinion of the neighborhood. Mr. Kendall again berated Staff for the condition of several homes in the neighborhood and Staff's lack of action on such and reiterated that he felt that Staff should drop their opposition to the Appellant. He then spoke to concerns about drugs in the neighborhood and further berated staff. Mr. Wales asked if the definitions of park models was addressed in the updated zoning regulations. Ms. Barnard noted that if precedent was being set by this case then more caution was warranted. Mr. Dennis explained that Boards of Adjustment actions do not set precedent and that each case is viewed on its own. He also explained that the remedy for placing park models in general was a change to the zoning regulations. Mr. Brick shared personal experiences with park models and expressed a feeling that the County should pursue allowing park models as a lower cost housing option. Mr. Wales concurred.

Chairman Brick then closed the Public Hearing and called for Staff Summation and Recommendation.

Chairman Brick called for a motion. Mr. Wales summed up the facts and the definition of a park model. Vice Chairman Wales made a motion to grant this application for the Variances citing the factors in favor. Ms. Barnard noted that the Board served to protect the public from the government and seconded. Mr. Wales noted that precedent was not being set and stated that he felt this unit was not a park model. There was no further discussion.

The vote was 3-0 to approve the motion. Mr. Dennis noted that the Appellant would be refunded the application fee.

Planning Director's Report:

Mr. Dennis offered a brief Director's Report, informing the Board that there are no BA3 Dockets for next month. The Zoning Regulation changes were discussed as well. The change to kennels and animal husbandry was discussed and Mr. Dennis gave an update on the previous related appeal heard by the Board. Mr. Dennis also explained how SB1598 has eliminated interpretations.

Ms. Barnard made a motion to adjourn. Mr. Wales seconded, and the meeting was adjourned at 8:00 p.m.